

Office of the President

June 9, 2017

P.O. Box 17
Point Lookout, MO 65726
www.cofo.edu

Phone 417-690-2470

Ms. Candice Jackson, Acting Assistant Secretary
U.S. Department of Education, Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Re: College of the Ozarks' Request for Title IX Religious Exemption

Dear Ms. Jackson,

The College of the Ozarks is a four year, accredited Christian college whose vision is “to develop citizens of Christ-like character who are well-educated, hard-working, and patriotic.”¹ It is affiliated with the Presbytery of Mid-America, Evangelical Presbyterian Church. College of the Ozarks has been committed to the historic Christian faith and the Protestant tradition from its founding and continues to remain so today.² It follows the doctrine expressed in the Apostles’ Creed, Nicene Creed, and, most importantly, the authority of Scripture.

College of the Ozarks is completely controlled by its Board of Trustees.³ The Bylaws require the following as qualifications for its Trustees:

Trustees shall be dedicated Christians who express their commitment through active involvement in a local Christian church and the living of a life that is appropriate for those who serve as role models for college students and for one another. Trustees shall share the College’s faith commitment to the historic evangelical Christian faith and Protestant tradition. Trustees shall annually affirm adherence to the Apostles’ and Nicene Creeds and dedication to the inspiration and authority of Scriptures.⁴

Furthermore, the Bylaws describe the purpose of the College as follows:

The purpose of the College of the Ozarks is to provide the advantages of a Christian education for youth of both sexes, especially for those found worthy, but who are

¹ Exhibit 3: College of the Ozarks Vision; Exhibit 1: Articles of Incorporation.

² Exhibit 11: History of the College of the Ozarks.

³ Exhibit 2: Bylaws, Article III, Section 1.

⁴ Exhibit 2: Bylaws, Article III, Section 2.



without sufficient means to procure such education. To carry out this purpose, the following goals have been defined: academic, vocational, Christian, patriotic, and cultural.⁵

College of the Ozarks' Christian beliefs permeate its hiring decisions, admission requirements, and daily academic and cultural environment. Faculty are expected to support the College's ethical and moral positions, including those on the sanctity of human life, traditional marriage, and religious liberty. Faculty are also expected to maintain active involvement in a local church and model Christian virtues for students.⁶ Faculty members' Christian commitment, evidenced by church membership and attendance, is considered as a part of the evaluation process.

The College's students clearly know that College of the Ozarks is a Christian institution which prioritizes the development of Christian character traits.⁷ The Student Handbook clearly describes its adherence to Christianity and the Christian goal.⁸ It includes the Apostles' and Nicene Creeds. Furthermore, the College requires chapel attendance and provides information on outside religious organizations.

As described clearly in the faculty, staff, and student handbooks, College of the Ozarks is guided by a long-standing traditional, biblical worldview which reflects the understanding that human sexuality is a gift from God, and that:

- sex assigned at birth is a person's God-given, objective gender, whether or not it differs from internal sense of "gender identity" (Genesis 1:27; Leviticus 18:22; Matthew 19:4; Romans 1:26-27; 1 Corinthians 6:9-10);
- sexual relations are for the purpose of the procreation of human life and the uniting and strengthening of the marital bond in self-giving love, purposes that are to be achieved solely through heterosexual relationships in marriage (Genesis 1:28; Exodus 20:14; Proverbs 5:15-23; Matthew 19:5; 1 Corinthians 6:12-20; 7:2-5; 1 Thessalonians 4:3).⁹

College of the Ozarks also believes in the sanctity of human life from the moment of conception.¹⁰ It clearly communicates its vision and expectation to faculty in the Employee Commitments brochure and in the application process as evidenced in the Faculty Applicant Questionnaire.¹¹ It continues to reinforce its expectation of adherence to

⁵Exhibit 2: Bylaws, Article II.

⁶ Exhibit 4: Faith and Practice Commitments, Faculty Handbook, p. 37.

⁷ Exhibit 9: Student Handbook, pages 65-67; Exhibit 10: Student Admission Documents.

⁸ Exhibit 9: Student Handbook, pages 65-67.

⁹ Exhibit 5: Lifestyle/Sexuality Policy (Faculty Handbook, p. 40; Staff Handbook, p. 2; Student Handbook, p. xvii).

¹⁰ Exhibit 4: Faith and Practice Commitments, Faculty Handbook, p. 37; Exhibit 8: Employee Commitments Brochure.

¹¹ Exhibit 8: Employee Commitments Brochures; Exhibit 7: Faculty Applicant Questionnaire.

Christian principles in its faculty evaluation criteria.¹² These beliefs produce concern for the impact of possible Office for Civil Rights (OCR) interpretations of Title IX requirements.

Therefore, College of the Ozarks requests that your office acknowledge that the College is exempt from Title IX and the following implementing regulations (to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they conflict with the College's belief in and commitment to the sanctity of human life and marriage):

- 34 C.F.R. § 106.21 (Admission)
- 34 C.F.R. § 106.22 (Preference in Admission)
- 34 C.F.R. § 106.23 (Recruitment)
- 34 C.F.R. § 106.31 (Education Programs or Activities)
- 34 C.F.R. § 106.32 (Housing)
- 34 C.F.R. § 106.33 (Comparable Facilities)
- 34 C.F.R. § 106.34 (Access to Classes and Schools)
- 34 C.F.R. § 106.35 (Access to Institutions of Vocational Education)
- 34 C.F.R. § 106.36 (Counseling)
- 34 C.F.R. § 106.37 (Financial Assistance)
- 34 C.F.R. § 106.38 (Employment Assistance to Students)
- 34 C.F.R. § 106.39 (Health and Insurance Benefits and Services)
- 34 C.F.R. § 106.40 (Marital or Parental Status)
- 34 C.F.R. § 106.41 (Athletics)
- 34 C.F.R. § 106.42 (Textbooks and Curricular Material)
- 34 C.F.R. § 106.43 (Standards for Measuring Skill or Progress in Physical Education Classes)
- 34 C.F.R. § 106.51-61 (Relating to Employment)

Thank you for your prompt attention to this matter.

Sincerely,



Jerry C. Davis
President, College of the Ozarks

¹² Exhibit 6: Christian Commitment and Religious Character and Expectations, Faculty Handbook, p. 6-7; 21.



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

January 2, 2018

Jerry C. Davis
President
College of the Ozarks
P.O. Box 17
Point Lookout, MO 65726

Dear President Davis:

I write in response to your June 9, 2017, letter to the U.S. Department of Education's Office for Civil Rights (OCR), in which you requested a religious exemption for the College of the Ozarks (College) of Point Lookout, Missouri, from Title IX of the Educational Amendments of 1972 (Title IX), 20 U.S.C. § 1681.

Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of Federal financial assistance. Title IX and its implementing regulation at 34 C.F.R. § 106.12 provide that Title IX does not apply to an educational institution that is controlled by a religious organization to the extent that the application of Title IX would be inconsistent with the controlling organization's religious tenets. Therefore, such educational institutions may request an exemption from Title IX by identifying the provisions of Title IX that conflict with a specific tenet of the religious organization. The request must identify the religious organization that controls the educational institution and specify the tenets of that organization and the provisions of the law or regulation that conflict with those tenets. An institution may be considered controlled by a religious organization if it is a school or department of divinity.

Your request letter states that the College is affiliated with the Presbytery of Mid-America, Evangelical Presbyterian Church and "completely controlled by its Board of Trustees." Your letter explains that the College's bylaws require trustees to "share the College's faith commitment to the historic evangelical Christian faith and Protestant tradition" and "annually affirm adherence to the Apostles' and Nicene Creeds." Your letter further explains that "[f]aculty members' Christian commitment, evidenced by church membership and attendance, is considered a part of the evaluation process" and that the College requires chapel attendance by students.

Your letter requests exemption from certain provisions of Title IX and its implementing regulations to the extent that they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they conflict with the College's belief in and commitment to the sanctity of human life and marriage. In support of this request, your letter cites its faculty, staff, and student handbooks, explaining that the College "is guided by a long-standing traditional, biblical worldview which reflects the understanding that human sexuality is a gift from God," that "sex assigned at birth is a person's God-given, objective gender, whether or not it differs

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-1100
www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Jerry C. Davis — page 2

from internal sense of ‘gender identity,’” and that sexual relations are for the purpose of the procreation of human life and the uniting and strengthening of the marital bond in self-giving love, purposes that are to be achieved solely through heterosexual relationships in marriage.” Your letter further explains that the College “believes in the sanctity of human life from the moment of conception.”

Your letter states that, for the above reasons, the College is requesting an exemption from the following regulatory provisions to the extent they are interpreted to reach gender identity or sexual orientation discrimination, and to the extent they conflict with the College’s belief in and commitment to the sanctity of human life and marriage:

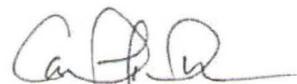
- 34 C.F.R. § 106.21 (governing admission);
- 34 C.F.R. § 106.22 (governing preference in admission);
- 34 C.F.R. § 106.23 (governing recruitment of students);
- 34 C.F.R. § 106.31 (governing education programs or activities);
- 34 C.F.R. § 106.32 (governing housing);
- 34 C.F.R. § 106.33 (governing comparable facilities);
- 34 C.F.R. § 106.34 (governing access to classes and schools);
- 34 C.F.R. § 106.35 (governing access to institutions of vocational education);
- 34 C.F.R. § 106.36 (governing counseling);
- 34 C.F.R. § 106.37 (governing financial assistance);
- 34 C.F.R. § 106.38 (governing employment assistance to students);
- 34 C.F.R. § 106.39 (governing health and insurance benefits and services);
- 34 C.F.R. § 106.40 (governing marital or parental status);
- 34 C.F.R. § 106.41 (governing athletics);
- 34 C.F.R. § 106.43 (governing standards for measuring skill or progress in physical education classes); and
- 34 C.F.R. §§ 106.51-61 (governing employment).

The College is exempt from these provisions to the extent that compliance would conflict with the controlling organization’s religious tenets.

Please note that this letter should not be construed to grant exemption from the requirements of Title IX and the regulation other than as stated above. In the event that OCR receives a complaint against your institution, we are obligated to determine initially whether the allegations fall within the exemption here recognized.

I hope this letter fully responds to your request. If you have any further questions, please do not hesitate to contact me.

Sincerely,



Candice Jackson
Acting Assistant Secretary for Civil Rights